

1 JUDGE STEINBERG: So now continue.

2 MR. HONIG: Well, I think I better try you now that
3 I think of it. I, I heard in some of what Ms. Schmeltzer just
4 said the kernel of an argument that the Church may have been
5 compelled in, in some way or pressured in some way to not be
6 in the position to make the constitutional argument which
7 would, which would have obviated the need to put this
8 testimony in the direct examination because of other
9 circumstances. And, and if that was the, the intention of
10 counsel I, I think I, that argument should be heard on it.
11 Because I don't want -- I don't think that's so.

12 JUDGE STEINBERG: Well, if the argument is made --
13 I've ruled. I, I had an objection. The objection was to your
14 question which was basically explain your last -- explain the
15 last sentence of paragraph 12 on page 7. You know, that was
16 after we all found out what a share-a-thon was. And we have a
17 specific objection. I've overruled the objection. You can
18 withdraw your question. You can restate your question. But
19 I'm not going to sit here and argue about what somebody's
20 position might be down the road.

21 If they make the argument in their findings I -- and
22 you can respond to it in your reply. And if I think it's
23 appropriate, I'll deal with it. If they, they make the
24 argument in front of the Review Board, the Review Board will
25 deal with it.

1 Mrs. Schmeltzer is making an objection for the
2 record and preserving her position. Because if she doesn't
3 make it now it's, she can't make it later.

4 MR. HONIG: My concern, Your Honor, is just that --

5 JUDGE STEINBERG: And you can, you could also --
6 I'll consider that a standing objection too.

7 MR. HONIG: Yeah --

8 JUDGE STEINBERG: So you don't have to restate it
9 every time.

10 MR. HONIG: It's, it's just that one could, one
11 in --

12 JUDGE STEINBERG: Well, let, let me just say I told
13 you I didn't want any statements. Just let's get on with the
14 questioning.

15 MR. HONIG: Okay. The question I -- that I had
16 asked was what -- why, why would it be --

17 JUDGE STEINBERG: The question was in your -- why,
18 why is it helpful for secretaries who were contacting pastors
19 to enlist volunteers for share-a-thons to be familiar with the
20 Lutheran Church. Is that right?

21 MR. HONIG: Or from a particular religious
22 background -- thank you, Your Honor.

23 JUDGE STEINBERG: Okay, that was the question.
24 Anybody remember it differently? It was in different words.

25 MR. HONIG: Yeah. That, that's close enough.

1 JUDGE STEINBERG: That was the heart of it.

2 MR. HONIG: Thank you.

3 WITNESS: Okay. Not only for the share-a-thon but
4 specifically on that but for many other secretarial duties,
5 secretaries interact on a daily basis with pastors within the
6 Lutheran Church and schedule them to be speakers, schedule
7 them to what they're going to speak about. In direct regard
8 to the share-a-thons they tell them what role they're playing
9 and if they want them to do prayers or whatever they're
10 schedule, specific scriptural, scriptural readings with the
11 pastors. Schedule services and, and Bible studies and so
12 forth that are based upon the Church calendar.

13 BY MR. HONIG:

14 Q Did all, did all secretaries do that?

15 A Not all secretaries did that, no.

16 Q What about receptionists?

17 A Receptionists oftentimes, receptionists oftentimes
18 were secretaries.

19 Q It's either one of them --

20 A Sometimes they did that.

21 Q What about receptionists who were just
22 receptionists?

23 A Receptionists who are just receptionists may fill in
24 as schedule, schedule people. They definitely interact with,
25 with the audience at KFUD and the people that call in

1 responding about religious programming and whether or not they
2 want to be on the air and so forth.

3 JUDGE STEINBERG: What do you mean by when you said
4 Lutheran calendar? What do you mean by that?

5 WITNESS: Well, a Church --

6 JUDGE STEINBERG: Is that a separate calendar?

7 WITNESS: Yeah, not a, not a 365-day calendar but
8 like Easter Sunday followed by Trinity Sunday. Those are
9 specific events of one year --

10 JUDGE STEINBERG: I mean is the, is the calendar
11 different? Does it still run from January 1st to
12 December 31st?

13 WITNESS: The Church calendar?

14 JUDGE STEINBERG: Yeah.

15 WITNESS: I'm not for sure about that. But --

16 JUDGE STEINBERG: Okay.

17 WITNESS: -- each Sunday has a --

18 JUDGE STEINBERG: A special significance.

19 WITNESS: Yes.

20 JUDGE STEINBERG: Okay. But Sunday is, Sunday is
21 Sunday.

22 WITNESS: Sunday is always Sunday.

23 JUDGE STEINBERG: Okay.

24 MR. HONIG: Now --

25 JUDGE STEINBERG: And, and there's a -- there might

1 be a specific religious --

2 WITNESS: Church --

3 JUDGE STEINBERG: -- there is specific religious
4 significance in celebration --

5 WITNESS: To some of us --

6 JUDGE STEINBERG: -- to each separate Sunday. It's
7 not like the Hebrew calendar which my father has to tell me
8 when it starts and end because, ends because I never know.
9 And the holidays are all different every year. And it's not
10 like that.

11 WITNESS: There are specific elements to each week,
12 yes.

13 BY MR. HONIG:

14 Q Now first let me pin this down. When, when you say
15 the Lutheran Church or Lutheran doctrine or Lutheran
16 teachings, throughout your testimony, you're speaking
17 specifically of as interpreted by the Missouri Synod. There
18 are other Synods. Isn't that right?

19 A Yes.

20 Q Okay.

21 A Yes and yes.

22 Q Now your, your sentence here states "be familiar
23 with the Lutheran Church." Now was -- when you used the words
24 "familiar with" did you mean -- what, what did you mean?

25 A That these people understood first of all the

1 relationship that pastors would have with the radio station.
2 And secondly the understanding of the Church calendar and
3 other Church-related events.

4 Q Now is there -- I think familiar with rather than
5 being a Church member, was that intentional on your part? Or
6 did you mean them to be, to be synonymous?

7 A I said it would be very helpful if they were a
8 member. It may be possible to get familiar with those
9 elements.

10 Q Now if a person wasn't a member of the Lutheran
11 Church, let's suppose was a Christian churchgoer that knew
12 what a mainstream Christian service is like and how you refer
13 to a pastor and so forth and has read the Bible. Could that
14 person learn on the job in a short time the additional facts
15 about the Lutheran Church Missouri Synod which they would also
16 have to know in order to perform these jobs?

17 MS. SCHMELTZER: Objection. Calls for speculation
18 on the part of the witness, and it's a very vague question. I
19 don't know what jobs Mr. Honig was referring to. But in any
20 event, calls for speculation.

21 JUDGE STEINBERG: I'll let you sharpen it up.
22 Basically the question is, and I think it's a fair question
23 is, is the statement is it was also helpful for certain
24 secretaries and, and we've expanded that into receptionists to
25 be familiar with Lutheran Church, etc., etc., for various

1 reasons. And the witness has explained that. And what Mr.
2 Honig is just asking is, and I think it's a fair question is
3 could someone who is unfamiliar with the Lutheran Church be
4 trained to do this, these receptionist and clerical jobs. Is
5 that what you were getting at?

6 MR. HONIG: That's right.

7 JUDGE STEINBERG: In your opinion. Your, you know,
8 you, you were acting, you were acting general manager. You
9 are general manager. You've hired people for these positions,
10 haven't you?

11 WITNESS: Yes.

12 JUDGE STEINBERG: Okay. And in your opinion -- this
13 is opinion. And it's, it's -- and if, if you can't express
14 your opinion just say I don't know. I mean I'm not forcing
15 you to. Is it -- and Mr. Honig was saying is it, is it -- the
16 question is can people who are not familiar with the Lutheran
17 Church be trained to do these jobs in your opinion?

18 WITNESS: In, in my opinion, I think they could be
19 trained. I don't think it would be safe to say in a day or a
20 week or a couple of weeks. I think to become comfortable with
21 it it would take longer than that. And the second part, the
22 one that --

23 JUDGE STEINBERG: Okay, could you keep your voice
24 up? Did you hear that, that answer?

25 MR. HONIG: Most -- I think I got the gist of it --

1 JUDGE STEINBERG: It was basically yes, but not in a
2 day or two. It might take a while.

3 MR. HONIG: Okay.

4 JUDGE STEINBERG: I'm paraphrasing.

5 WITNESS: Okay. Sorry. The, the second part as it
6 relates to the share-a-thon and other events where you're
7 asking for money from which is in almost every case other
8 Lutherans, it's very unusual for Lutherans that, that support
9 the radio station to want to talk to and give money to people
10 they feel uncomfortable with, non-Lutherans.

11 BY MR. HONIG:

12 Q Would they know that the -- if you call in the
13 station to give money, would they know that the person
14 answering the phone is a Lutheran?

15 A Not necessarily. But the people that we have in
16 those positions that ask for money are Lutherans.

17 Q Now what about -- let me ask the same question about
18 either familiarity with or membership in the Church with
19 respect to engineers. Is that --

20 A Why is that helpful?

21 Q Or is it, is it --

22 A Or is it necessary?

23 Q -- required or helpful, familiarity or membership?

24 A I think it's, it can be a desirable happening. Why,
25 because the engineers go out to churches and do all the remote

1 set-up of church services. They interact with the pastors at
2 the church and schedule when things are going to happen and
3 how they're going to happen and discuss the engineering
4 technical venue of the operation so that the pastor knows
5 what's going on and that the radio station knows what's going
6 on.

7 Q But that -- isn't it correct that those directions
8 involve a pastor telling the engineer this is where the mikes
9 should go and put them here and, and this is what, how the
10 volume should be and, and at some point in the service we need
11 you to keep the ambient noise down and so on? Is that about
12 right?

13 A Well, in the technical sense that's about right.
14 But they interact with the, with the pastor there and --

15 Q Is there any other interaction, material interaction
16 other than that which I've just described.

17 A Just telephone interaction to make arrangements and
18 so forth.

19 Q Okay. When can I come to set the mikes up?

20 A And how's it going, and did you have a problem.

21 Q Okay. What about the janitor?

22 A To be a member of the Lutheran Church?

23 Q Yeah.

24 A Once again, I don't think it's necessary for the
25 janitor to be a member of the Lutheran Church. If he's

1 familiar with the activities of the Lutheran Church as, as he
2 meets people and is on the job, it couldn't hurt.

3 Q Is it, is it a desirable characteristic? A plus
4 that's considered in evaluating applicants relative to one
5 another?

6 A Well, I don't know if it would be a major
7 consideration in hiring. I don't think it would be. But I
8 think it, it would be a desirable attribute.

9 Q Now -- so it would be a consideration but not a
10 major.

11 A It would be a minor consideration.

12 MR. ZAUNER: A point of information, Your Honor.
13 Are these questions and the witness's answers going to the
14 period of time that, the renewal period, or are we talking
15 about what the current state of mind of the witness is with
16 regard to these matters?

17 JUDGE STEINBERG: You can ask Mr. Honig to ask. Or
18 you can ask --

19 MR. HONIG: I'll ask. That's a good point. I
20 appreciate that. The questions are intended to speak to the
21 license term. But I've been using them in the present tense,
22 because I'm under the impression that there's no change in
23 policy on this subject of religious qualifications between the
24 license term and now. Am I right about that?

25 MS. SCHMELTZER: Objection. We -- this case does

1 not go to the present. This case only goes to the license
2 term. Mr. Stortz's testimony deals with the license term, and
3 if Mr. Honig wants to find out whether the, the witness has
4 been answering questions pertaining to the license term, he
5 ought to be more precise about the questions. But I object to
6 that particular question.

7 JUDGE STEINBERG: Okay. Why don't you just ask the
8 witness questions concerning his testimony which pins down the
9 time frame to which the answers apply.

10 MS. SCHMELTZER: He was asking him about specific
11 sentences in his --

12 JUDGE STEINBERG: Right.

13 MS. SCHMELTZER: -- testimony which dealt with the
14 license period.

15 JUDGE STEINBERG: But then, but then we got beyond
16 that specific sentence. We, we went into other areas.

17 (Pause.)

18 MR. HONIG: On page 8 at the bottom, there is a
19 sentence which says I should note that most of the seminary
20 students, that speaks to Concordia Seminary students, were
21 hired for positions connected with the espousal of religious
22 views such as part-time announcers of religious programs on
23 KFUE-AM. The word "most" in most of the seminary students,
24 would you amplify on what you meant by most?

25 MS. SCHMELTZER: Your Honor, I'm going to object.

1 There is a chart that's attached which indicates all of the
2 positions. And so I just think Mr. Honig is trying to confuse
3 the witness here but --

4 MR. HONIG: No, this -- if I may, Your Honor, the,
5 the question goes for positions connected with the espousal of
6 religious views such as. And I don't know which ones those
7 are on the charts. So I'm asking the witness to tell me what
8 most means for the --

9 JUDGE STEINBERG: Just, just have him answer the
10 question. What does most mean? It's easier, it's easier than
11 looking at the chart and going through every name. Which
12 you're free to do if you like.

13 WITNESS: I'm -- pardon me. I'm trying to recall if
14 any weren't hired for those positions that were --

15 MR. HONIG: I'm sorry. I can't hear.

16 WITNESS: I'm trying to recall if any seminarian
17 students weren't hired for positions that didn't have the
18 religion need.

19 MR. HONIG: Well, let me see if I can help you.
20 Were any of them hired at the FM station?

21 WITNESS: During the license period?

22 MR. HONIG: Yes.

23 JUDGE STEINBERG: I have an idea. Why don't you go
24 to attachment 6, look at those pages. I'm sure you're
25 familiar with the, with the names of the people and the

1 positions. And there's a recruitment source list there, the
2 recruitment referral sources where it says Concordia Seminary.
3 Just -- why don't you review that and see if you can answer
4 Mr. Honig's question as to --

5 WITNESS: Okay.

6 JUDGE STEINBERG: -- what you meant by most?

7 MR. HONIG: Your Honor, this is a long exhibit. And
8 it might -- the witness might want to take some time to think.
9 Can I suggest that we take a few minute's break to allow the
10 witness to go through --

11 JUDGE STEINBERG: Let's do it now. If he want, if
12 he wants --

13 MR. HONIG: We can do it now.

14 JUDGE STEINBERG: -- to review it now, he's here.
15 We'll review it now. If you can answer the question without
16 looking at attachment 6, go ahead.

17 WITNESS: Well, I'd like to at least scan through
18 it.

19 JUDGE STEINBERG: I'm just trying to make it easy
20 for you. I'm trying to make your answer -- I don't want, I
21 don't want you to be sandbagged because you aren't able to
22 look at, at a source which is more accurate than your memory.

23 WITNESS: Do you mean just the seminary students?

24 MR. HONIG: Yes. Which of these persons was a
25 seminary student?

1 WITNESS: Okay.
2 (Pause.)
3 WITNESS: None in the full time.
4 JUDGE STEINBERG: Okay. The -- did -- Mr. Stortz
5 just said there were none in the full-time employees?
6 WITNESS: Right.
7 MS. SCHMELTZER: Those are full-time hires --
8 JUDGE STEINBERG: Full-time hires, I'm -- okay.
9 MS. SCHMELTZER: During the license period.
10 WITNESS: You want me to go through them one by one
11 or just look at them and get a --
12 JUDGE STEINBERG: It's, it's Mr. Honig's question.
13 WITNESS: Do you want me to do them one by one or
14 just get it figured out?
15 MR. HONIG: Do them one by one.
16 WITNESS: I'm on should be document 0009.
17 JUDGE STEINBERG: That's page 9 of attachment 6.
18 WITNESS: Right. First person, Eric Van Scyoc, was.
19 Jim -- James Wilson was.
20 MS. SCHMELTZER: Was a seminary student?
21 WITNESS: And hired to be on the air. Ron Breight
22 on page 10 was hired as a technician. Not necessarily
23 requiring that to do that that he also served as a part-time
24 announcer. Tim Wesemann was. Ron Mohr was.
25 (Pause.)

1 WITNESS: David Adams was an on-air announcer on
2 page 12. Ed, Ed Blonski was at the bottom of page 12. Paul
3 Harner on page 13. Thomas Eggebrecht, Greear, James Greear,
4 Kurt Taylor, Waldemar Vinouski were all hired to be
5 announcers, part-time announcers. Wayne -- on page 14,
6 Huebner, Kufahl, Meyer, Ramsey, seminary students hired to be
7 announcers. And the last page 15, Reed, Cashmer and Wilken.
8 So of the chart all but Ron Breight, the engineer who also did
9 do announcing --

10 MR. HONIG: While we're on that chart --

11 WITNESS: -- were, were on the air.

12 MR. HONIG: -- a couple questions. First, am I
13 correct the chart starts with 1986?

14 MS. SCHMELTZER: No. 1983 -- first. Are you
15 looking at attachment 6?

16 MR. HONIG: I'm sorry. I, I -- the pages may have
17 been out of order.

18 MS. SCHMELTZER: It's long, it's long sheets --

19 MR. HONIG: Yeah.

20 JUDGE STEINBERG: It's 14 inch paper.

21 MR. HONIG: Okay. Now there's a footnote on the
22 first page of this exhibit which --

23 JUDGE STEINBERG: You're looking at the wrong tab,
24 Mr. Honig.

25 MR. HONIG: No, no. I, I just figured out what

1 happened. In, in the copy I have, the first three pages are
2 out of order. Hold on -- that's what happened.

3 JUDGE STEINBERG: You still don't have long paper.

4 MR. HONIG: No --

5 JUDGE STEINBERG: Everyone else has long paper.

6 MR. HONIG: -- we, we reduced it.

7 JUDGE STEINBERG: Oh.

8 MR. HONIG: And, and I just about figured out that
9 my clerk put the pages out of order. Now it makes sense.
10 Forgive me.

11 BY MR. HONIG:

12 Q On page 003 of attachment 6, there's a footnote that
13 says, "It was the policy of the radio stations to post
14 announcements of all job openings at the Church headquarters
15 after January 1, 1987." Now Mr. Stortz, weren't the position
16 descriptions or duty descriptions or job descriptions that
17 they're variously called all posted as they came out on the,
18 on the station bulletin boards throughout the license term?

19 A For job openings?

20 Q Yes.

21 A Far as I recall.

22 Q Okay. Now so that when there was a job that
23 happened to be open, the, the position or description or duty
24 description and so on attended to that job would have been up
25 on the station bulletin board.

1 A Not for the part-time positions.

2 Q Okay. Now on page 10 at the top, the first full
3 sentence says --

4 JUDGE STEINBERG: Are we back to the text of the
5 statement?

6 MR. HONIG: I'm sorry. We're back to the, back to
7 the text.

8 JUDGE STEINBERG: Okay.

9 BY MR. HONIG:

10 Q You state the salesperson hired by CMBS which is
11 Concert Music Broadcast Sales was in our judgment
12 knowledgeable about classical music. Who was that person?

13 A Tom Jackson.

14 Q What was the basis for your judgment that Mr.
15 Jackson was knowledgeable about classical music?

16 A Well, first of all, he was hired by Concert Music
17 Broadcast Sales which sells only to, to classical music radio
18 stations. So it's kind of inherent that that assumption was
19 made.

20 Q Was Mr. -- Mr. Jackson was an employee of the
21 station or Concert Music Broadcast Sales?

22 A Well, can I complete the --

23 Q I'm sorry.

24 A -- other -- the other answer was I knew Tom and knew
25 that he had knowledge of classical music. He, he was an

1 employee of, not of the station but of the Concert Music
2 Broadcast Sales.

3 Q Okay. Now were there people who Concert Music
4 Broadcast Sales hired but who in fact were on the station's
5 payroll?

6 MS. SCHMELTZER: During what period of time?

7 MR. HONIG: During any time in the license term.

8 WITNESS: No.

9 (Pause.)

10 MR. HONIG: Look at the last sentence of paragraph
11 15 on page 10 where you say -- in fact to put it in context so
12 it makes sense in the record, let me read the last two
13 sentences. "Of course, at times during the years 1986 to
14 1989, the turnover in the sales force was great, and economic
15 pressures forced us to hire replacements quickly. Thus, there
16 were instances in which we had to settle for people who had
17 less knowledge about the 'product' than we might initially
18 have liked."

19 JUDGE STEINBERG: Ideally have liked.

20 MS. SCHMELTZER: Ideally.

21 MR. HONIG: Ideally have liked. I'm sorry. Going
22 blind here.

23 BY MR. HONIG:

24 Q What, what is the product that you're referring to
25 there?

1 A The product is a combination of two things. It's
2 the format of the radio station. And for salespeople it's the
3 demographic of the audience.

4 Q Now when you say less knowledge of about the
5 product, did you mean less knowledge about the format of the
6 radio station or less knowledge about the demographics of the
7 audience or both?

8 A Either/or or both in some instances.

9 Q Now --

10 (Pause.)

11 Q Look at the next sentence on page 10 in paragraph
12 16. "I want to make it clear that the need for classical
13 music knowledge for various jobs did not in any way affect our
14 willingness to recruit individuals of any race, color or
15 creed." Is, is that intended as a statement of your opinion?

16 A As opposed to a statement of --

17 Q Objective fact. Did you feel that this is true or,
18 or are you asserting this as an objective fact that, that
19 other than your, your feeling or what you perceive as your
20 intentions that you could cite me to sources that, that prove
21 it's true?

22 A Well, clearly it's my feeling that it's true, my
23 opinion that it's true.

24 Q That's fine.

25 JUDGE STEINBERG: Well, he wasn't finished -- are

1 you finished with the answer?

2 WITNESS: No, I'd like to --

3 JUDGE STEINBERG: Yeah.

4 WITNESS: -- go on --

5 JUDGE STEINBERG: Expand on it.

6 WITNESS: -- just with another sentence or two.

7 Since I, I can't say that it ever did affect willingness to
8 recruit individuals of any race, color or creed I'd, I'd have
9 to say that's fact. I can't cite instances where it, where it
10 ever caused us not to do that.

11 MR. HONIG: At the bottom of paragraph 16, you
12 state, "Moreover, to the best of my knowledge, no minority
13 applicant was ever rejected for any position at KFUE-FM
14 because he or she lacked knowledge of classical music." Do
15 you recall whether there were any minority applicants for
16 positions at KFUE-FM other than for clerical and janitorial
17 positions during the license term and other than Cari Perez?

18 WITNESS: Any other positions other than sales --
19 including sales?

20 MR. HONIG: No, no. I didn't -- that wasn't --

21 JUDGE STEINBERG: I'm confused --

22 MR. HONIG: -- very well --

23 JUDGE STEINBERG: -- I'm confused by that question.

24 MR. HONIG: That was a confusing question. Let me
25 withdraw it and sharpen it up.

1 JUDGE STEINBERG: I think maybe you should ask did
2 any minority apply for any of those positions other than
3 clerical. I mean start with that one.

4 MR. HONIG: Yeah. Let's, let's try that.

5 JUDGE STEINBERG: And work from that one.

6 MR. HONIG: Sure. Other than clerical and janitor
7 positions, did any minorities apply during the license term?

8 (Pause.)

9 WITNESS: Not being in charge of the hiring in, over
10 that total time frame I, I can't answer that question
11 definitively one way or the other. I mean I can't say that I
12 remember a minority coming to the station and filling out an
13 application. But --

14 MR. HONIG: But in, in the course of your talking to
15 people, looking through station files and so forth to prepare
16 for this hearing, did you -- it's correct you came across no
17 indication that there had been a minority applicant other than
18 for clerical or janitorial during the license term. Isn't
19 that right?

20 MS. SCHMELTZER: Objection. Because you are mis-
21 characterizing the evidence, Mr. Honig, as you well know.

22 MR. HONIG: No, I don't. Except for Ms. Perez.

23 JUDGE STEINBERG: Well --

24 MS. SCHMELTZER: Well, that's what I mean.

25 MR. HONIG: Well, I said that.

1 JUDGE STEINBERG: Okay, let's --

2 MS. SCHMELTZER: But sometimes she's included in the
3 question and sometimes she's not. And I -- so I don't know
4 what the question is.

5 JUDGE STEINBERG: Let's start again.

6 BY MR. HONIG:

7 Q Other than Ms. Perez, course of your preparing for
8 this hearing, you reviewed the station's files, talked to
9 other people connected with the licensee. Other than Ms.
10 Perez, you know of no minority person that applied other than
11 for clerical or janitorial. Isn't that right?

12 A I -- in preparing for this hearing, I found a lot of
13 resumes that I don't know who these people were. So I can't
14 definitively say that as a blanket state of fact. Or who
15 applied to various managers throughout the years. I, I cannot
16 definitely say that.

17 I, I can say that I don't recall a minority coming
18 to the radio station other than Cari Perez and applying for a
19 job.

20 Q Now the names of the previous managers, Mr. Wilde
21 and Mr. -- Reverend Abatie and who was the other names that I
22 forget, those people were -- the names and addresses of those
23 people were produced in interrogatories. And you had access
24 to them, didn't you?

25 A Yes.

1 Q And, and did you ask them were there any minority
2 applicants that you remember?

3 A No.

4 Q Did anyone ask them that?

5 MR. ZAUNER: Objection.

6 JUDGE STEINBERG: That's sustained. He didn't ask
7 them.

8 MR. HONIG: Okay.

9 (Pause.)

10 MR. HONIG: Excuse me for one second, Your Honor.

11 (Pause.)

12 BY MR. HONIG:

13 Q On page 12, 6 lines down, you state, "The FM station
14 made a concerted effort to hire a minority salesperson and did
15 in fact hire Caridad Perez, a Hispanic female, in March 1988."
16 Would you -- what did you mean by the words "concerted
17 effort"?

18 A We wanted to hire a minority salesperson.

19 Q And tell me what steps were, were taken as part of
20 this effort.

21 A We advertised for a sales position in various St.
22 Louis area publications, the Post Dispatch. We contacted the
23 broadcast center.

24 Q Were these steps any different from the steps that
25 were taken in hiring other, for other sales positions?

1 A No.

2 Q Were there any other positions for which in your
3 opinion the station made a concerted effort to hire a
4 minority? Specifically.

5 A At any time?

6 Q At any time.

7 JUDGE STEINBERG: During the license term.

8 MR. HONIG: During the license term.

9 WITNESS: We made concerted effort to hire
10 minorities at, at the very end of the license period. And we
11 used some more direct advertising sources that targeted
12 specifically to, to the African American population.

13 BY MR. HONIG:

14 Q Now one of -- two of those positions opened in
15 January 1990, did they not? One was for a receptionist, the
16 other was for a janitor?

17 A Yes.

18 Q Okay. And, and isn't it the case that nearly all of
19 the applicants for those positions were African American?

20 A Many of them were, yes.

21 Q I'd like to show you an exhibit which has been
22 marked for identification earlier as NAACP Exhibit 63. I
23 don't have a witness copy, so I'm going to let you use my
24 copy. Now --

25 JUDGE STEINBERG: It's not marked up anywhere, is

1 it?

2 MR. HONIG: No. It just --

3 JUDGE STEINBERG: Okay.

4 MR. HONIG: -- has the brackets. And I need to show
5 the witness --

6 JUDGE STEINBERG: Okay. You explain -- yeah --

7 MR. HONIG: -- what they are.

8 JUDGE STEINBERG: You explain what they are.

9 MR. HONIG: Sure. These are -- and I'm saying this
10 for the record as well as the witness. This is a -- these are
11 pages drawn from materials produced in discovery that came
12 from the station's files. You'll see that at the top of each
13 page I've typed in and put in brackets the name of the job
14 applicant and the date of the application which was associated
15 with that application. And I wonder if you could go through
16 each of these and identify for each person whether you're
17 aware of the person's race or not and if so, what it is.

18 MS. SCHMELTZER: Objection. Relevance. What's the
19 relevance here?

20 MR. HONIG: The witness has testified that there
21 were, were, that there were concerted efforts to hire
22 minorities for particular positions. And this is part of the
23 applicant flow that the Commission considers for, for hiring
24 for particular positions.

25 MS. SCHMELTZER: They did hire minorities.